

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6365

BILL NUMBER: HB 1096

NOTE PREPARED: Jan 25, 2008

BILL AMENDED: Jan 24, 2008

SUBJECT: Various Provisions Concerning Courts.

FIRST AUTHOR: Rep. Hoy

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

**FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. It allows a petition for a hardship driving license to be filed in the superior court of the county in which the petitioner resides. (Under current law the petition can be filed only in the circuit court of the county in which the petitioner resides.) The bill provides, however, that if at the time a petition for a hardship driving license is filed: (1) the petitioner is a defendant in a pending case concerning the operation of a vehicle while intoxicated; (2) the petitioner is on probation after being convicted of operating a vehicle while intoxicated; or (3) the petitioner's driving privileges have been suspended after the petitioner was convicted of committing a controlled substance offense; the petition may be filed only in the circuit court or superior court in which the case is pending or the petitioner was convicted.
- B. It removes references to the Clerk of the Supreme Court from statutes concerning: (1) compensation of elected officials; and (2) annual economic interest statements filed by judicial officers or candidates for judicial office who are subject to election or a retention vote. (As of January 1, 2007, the Clerk of the Supreme Court ceased being a statewide elected office and is now appointed by the Chief Justice.)
- C. It provides that the powers of a magistrate include the power to enter a final order or judgment: (1) in a proceeding involving the small claims docket of the court; and (2) concerning protective orders to prevent domestic or family violence.
- D. It adds a second judge to the Franklin Circuit Court as of January 1, 2009. It abolishes the Franklin Circuit Court magistrate as of January 1, 2009.
- E. It abolishes the Madison County Court on January 1, 2009. It increases the number of judges serving on the Madison Superior Court from three judges to five judges on January 1, 2009. It makes the two persons elected Madison County Court judges on November 4, 2008, the fourth and fifth judges of

- the Madison Superior Court.
- F. It adds a second judge to the Miami Superior Court as of January 1, 2009. The Governor shall appoint a person to serve as this judge for the period between January 1, 2009, and December 31, 2010.
 - G. It provides that as of January 1, 2009: (1) the Ohio County and Switzerland County Joint Superior Court is abolished; (2) the Jefferson County and Switzerland County joint fifth judicial circuit is abolished; and (3) Jefferson County constitutes and continues in the fifth judicial circuit and Switzerland County constitutes a new ninety-first judicial circuit.
 - H. It makes transitional and conforming amendments.
 - I. It allows the judge of the Dearborn and Ohio Circuit Court to appoint one full-time magistrate.
 - J. It allows the judge of the St. Joseph Probate Court to appoint three full-time magistrates (it currently can appoint one magistrate).

(The introduced version of this bill was prepared by the Commission on Courts.)

Effective Date: July 1, 2008; January 1, 2009.

Explanation of State Expenditures: *Summary:* The bill's provisions and estimated costs are shown below.

Provision	Effective	FY 2009	FY 2010	FY 2011	FY 2012
Clerk of the Supreme Court	7/1/2008		No Fiscal Impact		
Added powers for magistrates	7/1/2008		No Fiscal Impact		
Add: Franklin Circuit Court new court	1/1/2009	\$77,169	\$157,941	\$161,635	\$165,421
Repeal: Franklin Circuit Court Magistrate	1/1/2009	(\$62,535)	(\$127,942)	(\$130,886)	(\$133,904)
Madison County – 2 superior courts replace 2 county courts	1/1/2009		No Fiscal Impact		
Add: Miami Superior Court	1/1/2009	\$77,169	\$157,941	\$161,635	\$165,421
Add: Switzerland County 91st Judicial Circuit	1/1/2009	\$77,169	\$157,941	\$161,635	\$165,421
Add: Dearborn/Ohio Circuit Court New Magistrate	1/1/2009	\$62,535	\$127,942	\$130,886	\$133,904
Add: Switzerland Circuit Pros. Attorney*	1/1/2009	\$76,487	\$156,568	\$160,253	\$164,030
Add: Switzerland Circuit Dep. Pros. Attorney*	1/1/2009	\$58,512	\$119,720	\$122,484	\$125,317
Dissolve Ohio and Switzerland Superior Court	1/1/2009	(\$77,169)	(\$157,941)	(\$161,635)	(\$165,421)
Add: 2 New Magistrates for St. Joseph Probate Court	7/1/2008	<u>\$250,140</u>	<u>\$255,884</u>	<u>\$261,772</u>	<u>\$267,808</u>
Total Expenditures		<u>\$539,477</u>	<u>\$848,054</u>	<u>\$867,779</u>	<u>\$887,997</u>
* Assumes prosecuting attorney and deputy practice full-time.					

Details of the Bill's Provisions:

Clerk of the Supreme Court - Until 2006, the Clerk of the Indiana Supreme Court was an elected official. P.L.14-2004 made the Clerk a position that was appointed by the Chief Justice of the Supreme Court. The

provisions referring to the Clerk as a public officer is cleanup language because the salary of the Clerk is now determined by the Supreme Court and no longer specified in statute.

Added Powers for Magistrates – Under current law, only magistrates in Allen and St. Joseph courts have the power to enter a final order in small claims or protective orders. This bill would allow all magistrates appointed by judges to have these powers. This provision would have no fiscal impact and could assist trial courts to use their personnel more efficiently. The 2006 Indiana Judicial Report indicates that there are 50 magistrates in Indiana.

Dearborn, Ohio, Jefferson, and Switzerland Counties – This bill creates four new state-paid positions for a circuit court judge, a magistrate, a prosecuting attorney, and a deputy prosecuting attorney. The prosecuting attorney would be elected November 4, 2008 for a two year term. The prosecuting attorney position would be up for election again in 2010. The expenditures for a full year will depend on the salary that the circuit court judge would receive in 2009 and whether the prosecuting attorney and chief deputy work full- or part-time. The positions would not be created until January 1, 2009, so state expenditures in the FY 2008-2009 biennium would be for only the last six months of FY 2009.

The following table shows the number of courts that currently exist in Dearborn, Ohio, Jefferson, and Switzerland Counties and the proposed change in organizational structure of the courts in this four-county area.

Current Organizational Structure of Courts in Dearborn, Ohio, Jefferson, and Switzerland Counties				
	Current		Proposed	
	<u>Circuit Court</u>	<u>Superior Court</u>	<u>Circuit Court</u>	<u>Superior Court</u>
Dearborn	7 th Circuit	2 superior courts	7 th Circuit	2 superior courts
Ohio		One joint superior court		magistrate
Switzerland	5 th Circuit	One superior court	91st Circuit	* see note below
Jefferson			5 th Circuit	One superior court
Total Courts	2	4	3	4
* Note: The Ohio County and Switzerland County Joint Superior Court would be dissolved.				

91st Circuit Court – The term judicial circuit refers to the area over which each circuit court has legal jurisdiction. With two exceptions, all counties are also judicial circuits. Indiana currently has 90 circuits. Dearborn and Ohio Counties share the 7th Circuit, while Jefferson and Switzerland Counties share the 5th Judicial Circuit. Switzerland and Ohio Counties also share the same superior court. As proposed, Jefferson County would become the 5th Circuit in Indiana, and Switzerland County would become the 91st Circuit.

By law, each new circuit has a judge, a prosecuting attorney, and a chief deputy prosecuting attorney who are paid by the state. In addition, this bill has two other provisions:

- It would eliminate the joint superior court shared by Ohio and Switzerland Counties.
- It would permit the judge of the 7th Circuit to appoint one new magistrate.

The net cost of these two provisions are shown in the summary table in the *Explanation of State Expenditures* section.

Prosecuting Attorneys – Each circuit in Indiana has a prosecuting attorney (Indiana Constitution, Article 7, Section 16). Each prosecuting attorney may appoint one chief deputy prosecuting attorney (IC 33-39-6-2). By creating a new circuit for Switzerland County, Switzerland County will have its own prosecuting attorney and deputy prosecuting attorney. The net effect is that there will be 91 circuits with 91 prosecuting attorneys and 91 chief deputy prosecuting attorneys.

Both the prosecuting attorney and chief deputy can choose to work full-time or part-time. The following table shows the salaries of prosecuting attorneys and their chief deputies depending on whether they elect to work full- or part-time and if the prosecuting attorney would receive an annual increase of 2.5% in salary adjustments. It is assumed for the purpose of this fiscal note that the prosecuting attorney and deputy prosecuting attorney will practice full-time.

Salaries of Prosecuting Attorneys and Chief Deputies Based on the Projected FY 2009 Salary of Circuit Court Judges				
	<u>Full-Time</u>		<u>Part-Time</u>	
Prosecuting Attorneys	\$119,893	100%	\$71,936	60%
Chief Deputy Prosecuting Attorney	\$89,920	75%	\$53,952	45%

Background Information on Salary Estimates-

Salaries of Judicial Officers – Circuit and superior court judges and prosecuting attorneys receive the same salary and are adjusted each year by one of two methods:

- The General Assembly could increase the amount specified in statute or
- If the General Assembly does not increase the salary of judges by a nominal amount, then under IC 33-38-5-8.1, salaries of judicial officers are adjusted by the amount that executive staff salaries in the same salary level are increased.

For this analysis, judicial officers are assumed to receive a 2.5% annual salary increase each year between FY 2009 and 2011.

The salaries of both the magistrate and the deputy prosecuting attorney are based on the salaries of the circuit court judge. A magistrate’s salary is 80% of the salary of a circuit or superior court judge, while the salary of a deputy prosecuting attorney is 75% of the salary of a prosecuting attorney.

State expenditures associated with these new court officers will also depend on the costs of fringe benefits for state employees. While most of the benefits are based on a percentage of the salaries of the employee, the costs of medical insurance for these persons will depend on future decisions of the executive branch. The extent to which the state would pass along any increase in health insurance costs to employees is unknown.

The following costs are expected for FY 2009 based on the salaries specified in the statute and by a projected

increase in salary for judicial officers of 2.5% between FY 2008 and 2009.

Salaries and Benefits for Court Personnel in FY 2009				
<u>Benefits</u>	<u>Judge</u>	<u>Magistrate</u>	<u>Prosecuting Attorney</u>	<u>Chief Deputy</u>
Salary	\$119,893	\$95,914	\$119,893	\$89,920
Life Insurance	\$432	\$345	\$432	\$324
Indiana Judicial Conference	\$1,000	\$1,000		
Social Security	\$9,172	\$7,337	\$9,172	\$6,879
Retirement	\$11,933	\$9,112	\$11,570	\$8,677
Disability Insurance	\$2,734	\$2,187	\$2,734	\$2,050
Deferred Compensation Match	\$390	\$390	\$390	\$390
Health, Dental, and Vision (blended rate)	\$8,784	\$8,784	\$8,784	\$8,784
Total Cost Per Judicial Officer	\$154,337	\$125,070	\$152,974	\$117,024

Projected Salaries 2009 - 2011 – The following table shows estimates of what the total salaries (base and fringe benefits) of these court officers could be between FY 2009 and FY 2012 if their base salaries are increased each year by 2.5%.

Projected Base Salaries and Fringe Benefits by Judicial Officer, FY 2009 through 2012				
	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Circuit or Superior Court Judge	\$154,337	\$157,941	\$161,635	\$165,421
Prosecuting Attorney	\$152,974	\$156,568	\$160,253	\$164,030
Magistrate (80% of Judges)	\$125,070	\$127,942	\$130,886	\$133,904
Deputy Prosecuting Attorney (75% of Prosecuting Attorney)	\$117,024	\$119,720	\$122,484	\$125,317

Explanation of State Revenues:

Explanation of Local Expenditures: *Issuance of Hardship Driving Licenses* – Hardship driving licenses are issued to persons who have had a driving license suspended because they have been convicted of either drunk driving or a controlled substance felony. The person with a hardship license is restricted to driving to and from work and in the course of employment during the period of the driving license suspension. Under current law, only persons with a suspended license may petition the judge of the circuit court in which the person lives for a hardship license. As proposed, this bill would make two changes.

Venue for Filing a Petition for a Hardship License		
If the Person Is Convicted In:	Current Law	Proposed
.... the county of the petitioner's residence	Petition is filed in circuit court where person lives.	Petition is filed in circuit court or superior court where person lives.
.... a county other than the county of the petitioner's residence	Petition is filed in circuit court where person lives.	Petition is filed in circuit or superior court where person's license was suspended.

As proposed, this provision would permit superior courts as well as circuit courts to issue hardship driving licenses. This could help to distribute cases more efficiently.

New Courts in Dearborn, Ohio, Switzerland, Jefferson, Franklin, Madison, and Miami Counties – Depending on the current conditions of the office space in the local court houses, some of these counties may need to spend more for office space and support staff.

Explanation of Local Revenues:

State Agencies Affected: Indiana Judicial Center; Prosecuting Attorneys Council.

Local Agencies Affected: Dearborn, Ohio, Switzerland, Jefferson, Franklin, Madison, Miami Counties

Information Sources: *Indiana Code; 2006 Indiana Judicial Report.*

Fiscal Analyst: Mark Goodpaster, 317-232-9852.